

STEPHEN J. SORENSON, Acting United States Attorney (#3049)  
KARIN FOJTIK, Assistant United States Attorney (#7527)  
Attorneys for the United States of America  
185 South State Street, Suite 400  
Salt Lake City, Utah 84111-1506  
Telephone: (801) 524-5682  
Facsimile: (801) 524-4475

**FILED WITH**

**MAR 29 2006**

UNITED STATES  
MAGISTRATE JUDGE  
SAMUEL ALBA

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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,	:	Case No. <u>A-06-115 M</u>
	:	
Plaintiff,	:	
	:	<b>COMPLAINT</b>
vs.	:	
	:	
	:	
JAMES RUSSELL MALONE,	:	VIO:18 U.S.C. § 2422(b)
	:	[Coercion and Enticement For Illegal
Defendant	:	Sexual Activity];

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Before Honorable Samuel Alba, United States Magistrate Judge for the District of Utah, appeared the undersigned, who on oath deposes and says:

COUNT I  
(18 U.S.C. § 2422(b))  
(Coercion and Enticement)

During March 2006, in the Central Division of the District of Utah,

JAMES RUSSELL MALONE,

the defendant herein, did knowingly and intentionally, by means of a facility of interstate

commerce, persuade, induce, entice, and coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which a person can be charged with a criminal offense, or attempted to so persuade, induce, entice, and coerce; all violation of Title 18, United States Code, Section 2422(b).

### **STATEMENT OF FACTS**

I, Cami Newey, ("Your affiant"), Federal Bureau Investigation and Parole, being duly sworn, depose and state as follows to wit:

1. Your affiant has been employed as a Special Agent with the Federal Bureau of Investigations for nine years. I have worked on Innocent Images cases for the last five years and have worked on several cases related to the exploitation of children.

2. As a federal agent, your affiant is authorized to investigate violations of laws of the United States and is a law enforcement officer with the authority to execute warrants issued under the authority of the United States.

3. This affidavit is made in support of a criminal complaint charging JAMES RUSSELL MALONE with attempting to persuade, induce, entice and coerce an individual who had not attained the age of 18 years, to engage in sexual activity in violation of 18 U.S.C. § 2422(b).

4. The information set forth below has come from either personal investigation or has been related to me personally by other law enforcement officers associated with this investigation.

5. Your affiant knows that on during March 2006, law enforcement working in an undercover capacity, entered a Yahoo! chatroom using the persona of a 13 year old girl and a screen name "meggie\_gurl\_ut." This screen name was contacted via Yahoo! Instant Messenger by an individual using the screen name "emtgoalie123." After arrest Malone admitted to using the screen name "emtgoalie123" during his chats with "meggie\_gurl\_ut" during March 2006.

6. On March 8, 2006, Malone chatted with "meggie\_gurl\_ut." At the start of the "meggie\_gurl\_ut" indicated that she was 13 years. In the chat Malone inquired if she was home alone. Malone asked when he could come over and "make out" with her. A meeting was arranged for a church parking lot in Salt Lake City, and Malone stated he would be driving a silver car. Law enforcement observed a silver car pull into the parking lot at the time of the meeting.

7. After the arranged meeting, Malone returned to his computer and chatted with "meggie\_gurl\_ut" later that evening. During their chat asked if she would send him a topless photograph. He also asked if he could touch her genitalia. He also indicated if they met he could be naked and show her his erection.

8. On March 9, 2006, Malone again chatted with "meggie\_gurl\_ut." He indicated he was chatting from work and that he repaired computers at his work. He inquired when her mother would be home from work that evening. No meeting was arranged. On March 10, 2006, Malone chatted with "meggie\_gurl\_ut." He again inquired when her mother

would be off of work and asked if "meggie\_gurl\_ut" had her mother's digital camera. He again asked if she would sent him a topless photograph of herself. On March 15, 2006, Malone again chatted with "meggie\_gurl\_ut" from "work." He again inquired when her mother would be working and whether she had a picture to send to him.

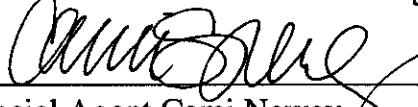
9. On March 27, 2006, Malone again chatted with "meggie\_gurl\_ut" and suggested she should miss school to meet with him. On March 28, 2006, a meeting was arranged for that morning. At the time of the meeting the same silver Malibu that was observed at the prior meeting pulled into the church parking lot.

10. Malone was arrested and after waiving his *Miranda* rights stated that he turned to internet chatting to meet people because he was sexually frustrated in his marriage. He stated he had been using the internet to meet people to "hook up with" for several years. He stated that he also had chatted with another 15 year old on the date arranged to meet "meggie." He admitted he had said he said the wrong things to the wrong person. He initially stated he only would have kissed "meggie" but then acknowledged that if things had gone farther he would have participated in the sexual activity. He also acknowledged using the screenname "emtgoalie123" when chatting with "meggie." He signed a consent for law enforcement to take his computer and acknowledged that he had chatted with "meggie" from computers at his work. Upon taking inventory of Malone's vehicle law enforcement recovered 14 writeable CDs, and a thumbdrive on and SanDisk lanyard.


11. I know from experience that Yahoo! is located in Sunnyvale, California and

that any transmission from a person using Yahoo! is relayed to servers outside the state of Utah. Because defendant and your affiant were using Yahoo! to communicate, the sexually explicit communications traveled in interstate commerce.

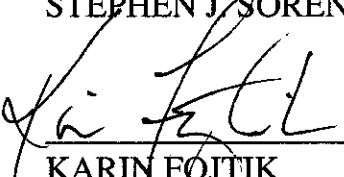
12. The defendant, JAMES RUSSELL MALONE, attempted to meet the 13 year-old female in Salt Lake City, Utah for purpose of conducting illegal sexual behavior, which act, if completed would constitute a criminal offense under Utah law. Your affiant submits there is probable cause to believe that Malone violated 18 U.S.C. § 2422(b), Coercion and Enticement for Illegal Sexual Activity.

  
Special Agent Cami Newey  
Federal Bureau of Investigations

SUBSCRIBED AND SWORN TO BEFORE ME THIS 29<sup>th</sup> DAY OF March, 2006.

  
Hon. Samuel Alba  
United States Magistrate Judge

APPROVED:  
STEPHEN J. SORENSON

  
KARIN FOJTIK  
Assistant United States Attorney